

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-0845**

In the Marriage of:

Alison Brooke Hurst, petitioner,  
Respondent,

vs.

William Charles Hurst,  
Appellant.

**Filed June 20, 2023  
Affirmed  
Cochran, Judge**

St. Louis County District Court  
File No. 69DU-FA-12-237

Terri Port Wright, Port Wright Law Office, Cloquet, Minnesota (for respondent)

Shawn B. Reed, Bray & Reed, Ltd., Duluth, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Worke, Judge; and  
Smith, Tracy M., Judge.

**NONPRECEDENTIAL OPINION**

**COCHRAN**, Judge

Appellant-father challenges a district court order denying his motion to modify parenting time and discharge the children's therapy services, arguing that the district court's factual findings are not supported by the record. We affirm.

## FACTS

Appellant William Hurst (father) and respondent Alison Hurst (mother) are the parents of Child 1, born in 2005, and Child 2, born in 2011. The parties were married in 2005 and divorced in 2012. The divorce decree awarded mother and father joint legal and joint physical custody with equal parenting time. Since their divorce, the parties have had ongoing disputes regarding custody and parenting time.

Between 2014 and 2019, mother reported father to child protective services on three occasions. The first two reports did not result in any adverse action against father. During the county's investigation into the third report, mother petitioned for an order for protection (OFP) against father and on behalf of the children and herself. In May 2019, the district court issued an ex parte OFP and granted mother temporary sole custody of the children. By January 2020, the district court dismissed the OFP. Around the same time, the children participated in a diagnostic assessment and were enrolled in individual therapy at Paradigm Therapy Services.

### *January 2021 Motion*

Approximately one year later, father filed a motion to enforce the original parenting-time order and to modify custody, alleging that he had not had direct in-person contact with the children since May 2019. Father argued that he was entitled to parenting time because the OFP had been dismissed. He also argued that mother's actions and behaviors interfered with his court-ordered parenting time and endangered the children, warranting a modification of custody. The district court held a three-day evidentiary

hearing on father's motion that concluded in May 2021. The district court heard testimony from father, Child 1's therapist, and Child 2's therapist, among others.

Father testified that he believed mother was intentionally interfering with his parenting time. He further testified that he believed the children were being "coached" by mother to make certain statements during the child-protection investigations and that mother was engaged in parental alienation. Father stated that he would like to see his children "without interruption, without interference from their mother, [and] without false allegations towards [him]." Throughout his testimony, father also expressed distrust of the children's therapy provider, Paradigm Therapy Services.

Child 2's therapist with Paradigm also testified. She testified that Child 2 was participating in trauma therapy to provide Child 2 with the skills to "learn about trauma, [and] process the traumatic events that she experienced." She also explained that there could be an opportunity for Child 2's parents to participate in Child 2's therapy. Child 2's therapist testified that father had not called or communicated with her, nor had she been in contact with him. She stated that she is willing to work with father and Child 2 to rebuild their relationship, but that immediate reintegration was not in Child 2's best interests at that time.

Child 1's therapist testified that Child 1 was participating in trauma therapy as well, working to process events, learn coping skills, and improve their<sup>1</sup> relationship with father. Child 1's therapist testified that a "critical part" of Child 1's therapy is figuring out "what

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<sup>1</sup> Based on Child 1's preferences expressed in the record before us, we use they/them pronouns when referring to Child 1.

type of relationship [Child 1] should have with [their] father.” Child 1’s therapist testified that he had called father and left a message, but that father did not return the call. He also stated that he would be willing to work with Child 1 and father to rebuild their relationship but that he did not believe a return to equal parenting time with father would be in Child 1’s best interests at that time.

#### *June 2021 Order*

In June 2021, the district court issued an order restoring joint legal and joint physical custody to father. But the district court found that a return to immediate and direct parenting time with father could cause regression in the children’s therapy and would not improve the familial relationship. The district court determined that father was entitled to parenting time but that the “re-initiation of parenting time shall be therapeutically guided” by the children’s therapists to “maintain as much stability and consistency as possible, and with sensitivity toward the trauma [the children] have experienced.” The district court ordered father to listen to the therapists’ recommendations for easing back into parenting time and ordered mother to not delay the initiation of father’s parenting time. The district court also ordered father to continue individual therapy and ordered mother to begin individual therapy. Father did not appeal this order.

#### *Events Following June 2021 Order*

After the district court issued its June 2021 order, father did not contact Paradigm. Instead, between July and August, the children’s therapists contacted father. Shortly thereafter, father began meeting with the children’s therapists individually. The therapists also guided meetings between father and the children. Beginning in October, father started

speaking with Child 2 over the phone under the supervision of Child 2's therapist. And in November, father and Child 2 met via videoconference under the supervision of Child 2's therapist. By mid-December, Child 2's therapist informed father that they could progress to an in-person meeting, and they scheduled the visit for January 11. Around this same time, father met with Child 1 via video conference for the first time under the supervision of Child 1's therapist.

In January 2022, before father's scheduled in-person therapy session with Child 2, Child 2's therapist called father. They discussed a list of topics that the therapist had recently covered with Child 2. Father recorded the phone call. The two first discussed belated Christmas presents that father might bring to the in-person meeting. Father noted that he was hesitant to bring "a bunch of presents and money" to the first in-person session but that, if the child was expecting that, he did not want to disappoint her. The therapist responded that father could do as he wished regarding the presents. The therapist next noted that Child 2 had dyed her hair. The therapist stated that Child 2 wanted father to know ahead of time and that Child 2 did not want to hear any negative comments about her choice to change her hair color. Father responded that mother should not be allowed to change the children's appearance without first discussing it with him.

The last topic discussed was an apology. The therapist told father that Child 2 wanted an apology from father "[f]or making her feel uncomfortable in the past." Father expressed concern that the apology would "validate something" that was untrue. He further stated that he had not done anything wrong and should not apologize. He also believed any apology would perpetuate "the parental alienation." The therapist explained that an

apology would not validate any false accusations but instead would focus on a “child-centered perspective.” She expected that the apology would sound like, “I apologize if you felt uncomfortable.” Father stated, “That’s not happening” and asserted that mother should instead be the one to apologize. The therapist asked if they could “table this apology conversation” and come back to it later.

After the phone call, Child 2’s therapist consulted with Paradigm’s director and decided to cancel the upcoming in-person session. Child 2’s therapist informed Child 2 about the cancellation. In doing so, the therapist shared details of the phone call between the therapist and father. The therapist informed Child 2 about father’s comments regarding her hair and his feelings about her request for an apology.

To inform father about the cancellation, the therapist prepared a formal letter. In the letter, the therapist expressed her concerns about father’s refusal to apologize. The therapist noted that the issue “ha[d] been discussed numerous times” and reiterated that the request was made for the purpose of validating Child 2’s emotions. The therapist also discussed two other concerns that led to the cancellation: father’s negative comments about Child 2’s dyed hair, and father’s stated intention to bring just one Christmas present to the in-person meeting even though Child 2 knew that father had numerous presents for her at his home. The therapist noted that father’s intention to bring only one Christmas present “raised concerns about [his] understanding of the emotional effect of [his] choices on [Child 2] and could reasonably be construed as related to [his] frustration with her request for an apology and her hair.” The therapist expressed concern that father’s approach to certain issues would cause father’s initial interactions with Child 2 to be unsuccessful. The

therapist requested that father contact her to address these issues and to discuss the possibility of rescheduling the in-person session. Father chose not to do so.

On February 9, 2022, the director of Paradigm temporarily suspended all family therapy. In a letter announcing this decision, the director noted that father had filed complaints against at least two clinicians at Paradigm and had most recently filed a complaint against the director for “undue influence on the diagnosis of and services provided to” Child 2. The letter noted that the family therapy services would be suspended until the investigation into the complaint was complete to “avoid the appearance of some type of undue influence” but that family therapy services could continue once the investigation was complete.

Around the same time, father’s counsel sent Paradigm a letter regarding the cancellation of the in-person visit between father and Child 2. Counsel wrote that the cancellation of the in-person session was “just another unnecessary delay.” Counsel also asserted that Paradigm’s decision to tell Child 2 about father’s comments regarding the child’s request for an apology amounted to a “breach of trust” and “created unnecessary harm to the relationship” between father and Child 2. Counsel asked Paradigm to send a response informing father of how Paradigm was advancing reunification efforts.

On February 14, 2022, Paradigm responded in an email to the parties stating that therapy services could continue for the children, but that Paradigm would no longer provide family therapy or therapeutically guided visits. The email noted that “this decision is based solely on [father’s counsel’s] ongoing allegations, lack of understanding and respect for the professional judgment and decision-making capacity of the providers, inability to

recognize that [the children] are the clients in the matter, and reaction to clinical decisions that he does not seem to thoroughly understand.” The email also explained that the decision was not based on any interaction or action of father, mother, or the children themselves. Paradigm later sent a follow-up letter stating that Paradigm was willing to resume family therapy under certain conditions.

#### *March 2022 Motion*

On March 28, 2022, father filed a motion asking the district court to discharge Paradigm from providing therapy services to the children and family. Alternatively, father requested that he be granted direct parenting time. In support of his motion, father argued that Paradigm wrongfully cancelled his in-person session with Child 2 and was unreasonably delaying his return to parenting time. Mother opposed the motion, arguing that father had delayed reunification therapy and contending that any changes to the children’s therapy would hinder the positive relationships the children had built with their therapists.

In a May 2022 order, the district court denied father’s motion to discharge Paradigm and have direct parenting time. The district court reasoned that discharging Paradigm would not be in the children’s best interests because “the children are comfortable, progressing, and supported at Paradigm.” The district court also found that “[c]hanging therapists . . . would only delay things further.” The district court noted that the June 2021 order laid out the reasons why reunification with father should be therapeutically guided. The district court acknowledged that the February 14 email from Paradigm “raises concerns about Paradigm’s willingness to fulfill the ‘therapeutically guided’ mandate of



this Court’s order” but found that “Paradigm is not refusing to provide the services.” The district court determined that “the children are healing and doing well overall in therapy with Paradigm. Forcing them to find new therapists would only harm them further.” The district court encouraged all parties to “sit down and discuss the matter to clarify what is expected for reunification therapy going forward.”

The district court concluded that “there is no indication that the therapists or [m]other is hindering or procrastinating [f]ather’s reunification with the children.” Instead, the court reasoned that father’s actions were the primary cause of the delay in reunification as “[h]e has not called therapists in a timely manner, he has refused to apologize or respect [Child 2’s] boundaries, and he repeatedly puts blame on others rather than focusing on the children’s needs.” Accordingly, the district court denied father’s request for direct parenting time, reiterating that father’s reunification must be “therapeutically guided and within the boundaries the children are setting for themselves.”

Father appeals.

## **DECISION**

Father challenges the district court’s order denying his motion to discharge Paradigm or, in the alternative, for an order requiring immediate, direct parenting time.<sup>2</sup>

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<sup>2</sup> In his brief, father also references his fundamental right to parent his children under the United States Constitution. *See Troxel v. Granville*, 530 U.S. 57, 65 (2000) (recognizing the fundamental right to parent under the Due Process Clause of the Fourteenth Amendment). During oral argument before this court, father clarified that he is not challenging the constitutionality of Minnesota’s parenting-time and child-custody statutes. Nor is he challenging the constitutionality of the district court’s application of the law. But even assuming father is raising arguments based on the constitution, father’s arguments fail because he did not raise them before the district court. *See Thiele v. Stich*,

“District courts have broad discretion on matters of custody and parenting time.” *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Father argues that the district court abused its discretion by denying father’s motion because (1) the district court failed to address his argument that there was “a breach of trust” by Paradigm, and (2) the record demonstrates that Paradigm, not father, was the primary cause of delay in reunification. We are not convinced.

Father first argues that we should reverse the district court’s order because the district court did not address his argument that Child 2’s therapist “breached [his] trust” when the therapist told Child 2 about father’s response to the child’s request for an apology. This argument misses the mark because it fails to consider the applicable legal standard for modifying parenting time. When considering a motion to modify parenting time, the district court must base its decision on “the best interests of the child.” Minn. Stat. § 518.175, subd. 5(b) (2022). In its decision, the district court properly applied this standard when it considered whether modifying parenting time and/or discontinuing therapy with Paradigm would be in the children’s best interests. The district court determined that the children were progressing, healing, and being supported by therapists

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425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally consider only the issues presented to, considered by, and decided by the district court); *In re Welfare of C.L.L.*, 310 N.W.2d 555, 557 (Minn. 1981) (declining to address a constitutional issue raised for the first time on appeal from a termination of parental rights).

at Paradigm. The district court denied father's request for immediate and direct parenting time, concluding that reunification must continue being therapeutically guided by Paradigm to avoid undoing the progress the children had made. Accordingly, the district court found that changing therapists was not in the children's best interests and that a change in therapy services would only delay reunification further.

Even assuming, without deciding, that the alleged "breach of trust" is relevant to the determination of the children's best interests, we note that father presented no evidence at the hearing to demonstrate that the therapist's discussion with Child 2 violated any professional standards. Accordingly, there was no basis for the district court to conclude that the therapist's actions were not in Child 2's best interests. In sum, father has failed to demonstrate an abuse of discretion by the district court in its best-interests findings and analysis.

Similarly, we are not persuaded by father's argument that the district court abused its discretion when it found that father's own actions, rather than Paradigm's actions, were the primary cause of the delay in reunification. We review a district court's factual findings for clear error. *Hansen*, 908 N.W.2d at 599. "We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). When conducting our review, we do not reweigh the evidence. *Id.* at 223. Rather, our duty on appeal is to fully and fairly consider whether the evidence "reasonably tends to support the findings" of the district court. *Id.* (quotation omitted).

Here, the district court found that father was the primary cause of the delay in reunification because “[h]e has not called therapists in a timely manner, he has refused to apologize or respect [Child 2’s] boundaries, and he repeatedly puts blame on others rather than focusing on the children’s needs.” The evidence in the record amply supports these findings.

First, the record reflects that father did not initiate contact with either child’s therapist following the district court’s June 2021 order granting father parenting time subject to reunification therapy. Instead, approximately a month after the district court issued its order, Child 1’s therapist contacted father. Similarly, Child 2’s therapist initiated the phone conversation with father regarding therapy sessions with Child 2. And, after Paradigm cancelled the in-person meeting between Child 2 and father due to concerns for the child’s wellbeing, father did not contact the therapist to discuss the outstanding issues and the possibility of rescheduling the in-person session.

Similarly, the record reflects that father refused to apologize. In the phone call between father and Child 2’s therapist prior to the scheduled in-person visit, Child 2’s therapist informed father that Child 2 wanted an apology from father for making her feel uncomfortable in the past. Father responded, “That’s not happening.”

Lastly, the record also supports the district court’s finding that father puts blame on others and is “fixated on his own feelings.” During the phone call with Child 2’s therapist, father stated that mother should be the one apologizing and that he “didn’t do anything wrong.” On this record, we cannot say that the district court clearly erred when it found that father has been primarily responsible for the delay in reunification.

In sum, while we recognize that father continues to disagree with the pace of reunification therapy and with some of the actions that Paradigm has taken, we conclude that the district court did not abuse its discretion by denying father's motion to discharge the children's therapists or, in the alternative, to modify parenting time.

**Affirmed.**